549.

SUPREME COURT OF THE UNITED STATES.

No. 26.

THE UNITED STATES, APPELLANT,

vs.

HEIRS OF F. M. ARREDONDO.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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Langtree & O'Sullivan, Print.

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SUPERIOR COURT, *East Florida.*

Be it remembered that on the ninth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Fernando de la Maza Arredondo, by John Drysdale, his solicitor, brought and filed in the clerk's office of said court, his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

To the Honorable the Judge of the Superior Court for the Eastern District of Florida.

The petition of Fernando de la Maza Arredondo, respectfully showeth:

That he claims title to all that certain tract or parcel of land, situate, lying, and being on the west side of Lake George in the district aforesaid, and within the jurisdiction of this honorable court, and containing fifteen thousand acres. That the said fifteen thousand acres are part and parcel of a certain large tract or parcel of land, consisting of thirty thousand acres, which was originally granted without condition and in absolute property by a concession or grant bearing date the 24th of March, 1817, to the said Fernando de la Maza Arredondo, a subject of the King of Spain, and a resident inhabitant of East Florida, by Don Jose Coppinger, then the Govenor of East Florida, while it was a province and dependancy of the Crown of Spain, under and in virtue of the powers and authority in him vested as Governor as aforesaid.

And your petitioner further shows, that the said 15,000 acres of land were afterwards located and surveyed on the west side of Lake George, in East Florida aforesaid, at a place called Silver Spring, and has such form, dimensions, and boundaries, as in and by the plat and certificate of the survey of said land, bearing date the 5th August, 1819, will fully and distinctly appear, reference being thereto had. And your petitioner prays leave to refer to the aforesaid concession, and the plat and certificate of the survey of the said land at the hearing of this cause; and that they may be taken as a part of this his petition.

And your petitioner further shows unto your Honor, that the claim of your petitioner to the said fifteen thousand acres of land has been duly submitted to the examination of the Board of Commissioners appointed under in and virtue of an act of the Congress of the United States, entitled "An act amending and supplementary to the act for

ascertaining claims and titles to lands in the Territory of Florida, and to provide for the survey and disposal of the public lands in Florida," passed the third day of March, 1823, and by it recommended for confirmation; and that the said lands so claimed by your petitioner and situated in the Territory of Florida as aforesaid, are embraced by the treaty between Spain and the United States, of the 22d February, 1819; that his claim thereto has not been decided or finally settled under the provisions of the act of the Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," passed 23d May, 1828, or of any of the acts to which the said last recited act is supplementary; that the claim of the said Fernando de la Maza Arredondo to the said land was for a greater quantity than the commissioners appointed under the said act were authorized to decide, and above the amount confirmed by the aforerecited act of Congress passed 23d May, 1828, and that the said claim of the said Fernando de la Maza Arredondo has not been reported by the said commissioners appointed under any of the aforesaid acts, or any other, or by the register and receiver acting as such under the several acts of Congress in that case made and provided, as antedated or forged.

Wherefore, your petitioner prays that the validity of his title to the said fifteen thousand acres of land so claimed by him as aforesaid, may be inquired into, and decided by this honorable court; and that due process may issue and be served according to the provisions of the acts of Congress of the United States in such case made and provided; and your petitioner will ever pray, &c.

JOHN DRYSDALE,
Attorney for Petitioner.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district to serve on the attorney of the United States for the same district; and the return of the said marshal thereon, is in the words and figures following, to wit:

"Executed by giving a copy to Thomas Douglas, Esq., United States attorney, the 25th May, 1829.

WATERS SMITH, *Marshal.*"

And afterwards, to wit, on the seventh day of July, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, Esquire, United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

3-81.

SUPERIOR COURT, *November Term*, 1829.

THE UNITED STATES OF AMERICA
ats.
FERNANDO DE LA MAZA ARREDONDO.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the petition or bill of complaint of Fernando de la Maza Arredondo:

The said attorney, in the name and for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities in the said petition or bill of complaint, contained for answer thereunto, or unto so much thereof, as it is material and necessary for them to answer unto, answereth and saith: That, whether any such grant for thirty thousand acres of land was made to the said Fernando de la Maza Arredondo by Don Jose Coppinger, governor of East Florida, bearing date the 24th March, 1817, as he the said Fernando de la Maza Arredondo has in his said petition or bill of complaint alleged, or whether fifteen thousand acres of the said land was located and surveyed on the west side of Lake George in East Florida, at a place called Silver Spring, as is in the said petition or bill of complaint alleged, stated, and set forth, this respondent has no knowledge except what he has derived from a perusal of the said petition or bill of complaint, and cannot, therefore, either admit or deny the same; but respectfully prays this honorable court to require of the said Fernando de la Maza Arredondo due proof of the making and execution of the said grant, and of the said location and the survey of the said fifteen thousand acres of the said land (if any such grant, location, or survey were ever made, which is not admitted,) and of all the matters and things in the said petition or bill of complaint thereof alleged and set forth, as they are therein stated, according to law, and the usages of courts of equity.

And this respondent avers, that if any such grant of said thirty thousand acres of land was ever made by the said Don Jose Coppinger, Governor of East Florida aforesaid, to the said Fernando de la Maza Arredondo, the said Don Jose Coppinger, governor as aforesaid, was induced to make the same by means of certain representations of the said Fernando de la Maza Arredondo, made by him to the said Don Jose Coppinger, in which he the said Ferdando de la Maza Arredondo alleged, that he had rendered great and important services to, and had incurred many and considerable expenditures for His Majesty the King of Spain and the country, and the said Don Jose Coppinger did make the said the said grant, if he made it at all, in consequence of the said representations, but whether the said Fernando de la Maza Arredondo ever rendered any such services, or made any such expenditures, this respondent does not know, and cannot, therefore, either positively deny or affirm that he did; but prays this honorable court,

that the said Fernando de la Maza Arredondo may be required on the hearing of this cause to show and prove the specific services rendered and the expenditures incurred by him for His Majesty the King of Spain aforesaid, and on account of which he procured the said supposed grant (if it was made at all) as in said petition or bill of complaint alleged.

And this respondent farther prays this honorable court, that the said Fernando de la Maza Arredondo may be required to show and prove on the hearing of this cause, the specific powers which had been conferred (if any such powers had been conferred) upon the said Don Jose Coppinger, Governor as aforesaid, to make grants of land in East Florida, at the time when the said supposed grant is alleged to have been made as aforesaid, and particularly that he may be required to show and prove the specific powers under which the said Governor Coppinger claimed to act when he made the said supposed grant, if, indeed, any such was ever made by him.

And this respondent avers, that, if any such grant of the said thirty thousand acres of land was made by the said Don Jose Coppinger, Governor as aforesaid, to the said Fernando de la Maza Arredondo, in manner and form as is alleged in the said petition or bill of complaint, it was made was made contrary to, and in violation of the laws, ordinances, and royal regulations of the Government of Spain, which were in force in the province of East Florida at the time when the said supposed grant is alleged to have been made as aforesaid, providing for the granting of lands in its provinces, of which provinces East Florida was then one, and that it was never approved by the said Government of Spain, and that it was, and is entirely null and void, as will more fully appear by reference to the laws, ordinances, and royal regulations, which this respondent prays leave to introduce and read on the hearing of this cause.

And this respondent suggests, that if the said Fernando de la Maza Arredondo has any such grant for said land, as is above supposed it was made since the the twenty-fourth day of January, one thousand eight hundred and eighteen, and that it was and is rendered utterly null and void by the provisions in the latter clause of the eighth article of the treaty made on the twenty-second day of February, in the year of our Lord one thousand eight hundred and nineteen, by and between the said United States and His Catholic Majesty the King of Spain aforesaid. And farther, that at the time when the said supposed grant is alleged to have been made as aforesaid, it was, and for a long space of time had been, the fixed and settled policy of the Government of Spain aforesaid, to parcel out its colonial domain with reference to the sole object aforesaid of increasing the population of its provinces, and of benefiting its indigent subjects, and that according to such policy, grants for the purpose of speculation were never approved or tolerated by the said Government, and that the said supposed grant, if it was obtained by the said Fernando de la Maza Arredondo at all, was obtained by him, as appears by his own showing, for purposes of speculation only.

And this respondent farther avers, that, if the said supposed grant

of thirty thousand acres of land was made by the said Don Jose Coppinger to the said Fernando de la Maza Arredondo, in manner and form as he the said Fernando de la Maza Arredondo has in his said petition or bill of complaint alleged, it was made without any power or authority on the part of the said Don Jose Coppinger to make it; and farther, that no power had been conferred by the Spanish Government aforesaid, upon the said Don Jose Coppinger, Governor as aforesaid, at the time when the said supposed grant is alleged to have been made as aforesaid, to make grants of land in East Florida of the magnitude and description of the one now claimed by the said Fernando de la Maza Arredondo in this suit.

And this respondent farther avers, that if the said grant of lands was made in manner and form as aforesaid, and if the said Don Jose Coppinger, Governor as aforesaid, had been invested with competent power to make it, (which is not admitted but denied.) The said Fernando de la Maza Arredondo has by a total failure to occupy, improve, and cultivate the said tract of land for the space of more than twelve years last past, and by a total abandonment of the said province has wholly forfeited and lost all right and title (if any he ever had) thereto.

And this respondent admits, that the said Fernando de la Maza Arredondo submitted his claim for the said tract of fifteen thousand acres of land to the Board of Commissioners in his said petition or bill of complaint mentioned, and that the said Board of Commissioners reported the confirmation thereof.

And now having fully answered all the matters and things in the said petition or bill of complaint alleged, the said attorney prays, that the said United States may be hereof discharged, and that their reasonable costs and charges by them, in and about the defence of this suit, paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOMAS DOUGLAS,
United States Attorney, &c.

And afterwards, to wit, on the twenty-ninth day of July, in the year of our Lord one thousand eight hundred and thirty-three, the said claimant, by his solicitors, brought and filed in the clerk's office aforesaid, his replication; which is in the words and figures following, to wit:

Replication.

SUPERIOR COURT, *for the Eastern District of Florida.*

F. M. ARREDONDO
vs.
THE UNTED STATES. } Land Claim.

Replication of the plaintiff to the answer of the United States, defendant.

This replicant saving and reserving to himself, all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, saith, that he will aver and prove his said bill to be certain, true, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this replicant, without that, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed, or avoided, traversed or denied, is true, all which matters and things this replicant is and will be ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed, &c.

SMITH AND LEVY,
Solicitors.

And afterwards, before the superior court for the district of East Florida, holden at the courthouse in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-four, to wit, on Wednesday, the fifth day of said term, and the twenty-third of said month; the following entry of record was made in this cause, to wit:

Death of Arredondo suggested.

FERNANDO M. ARREDONDO,
against
THE UNITED STATES OF AMERICA. } Land Claim, 15,000 Acres.

This day came as well the counsel for the said claimant, as the counsel for the said United States, and the counsel for the said claimant gives the court to understand and be informed, that since the last continuance of this cause, the said Fernando M. Arredondo hath departed this life.

And afterwards, on the fourth day of August, in the year of our Lord one thousand eight hundred and thirty-four, the solicitors for the claimants brought and filed in the clerk's office aforesaid, their bill of reviver; which is in the words and figures following, to wit:

Bill of Reviver.

SUPERIOR COURT, *East Florida.*

To the Honorable Robert R. Reid, Judge of the Superior Court for the Eastern District of Florida aforesaid, and specially authorized by an act of Congress to receive and adjudicate claims to land in the District of East Florida.

The petition of Brigida Gomez Arredondo, Dominga Arredondo, Dorothea Arredondo, Theresa Arredondo, Maria Manuella Arredondo,

Rosa Arredondo, and other heirs of Fernando de la Maza Arredondo, late deceased, respectfully shows unto your Honor, that Fernando M. Arredondo, did, on the nineteenth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, and within the time limited by act of Congress in such case made and provided for filing claims to land in said superior court of East Florida, duly filed his petition in said court, therein setting forth his claim to a certain tract of land, containing fifteen thousand acres, situated within the said district of East Florida, and within the jurisdiction of said court, to wit, on the west side of Lake George, on the St. Johns river.

That said claim had been submitted to the examination of the Board of Commissioners appointed under, and in virtue of an act of Congress, entitled "An act for ascertaining claims and titles to land in the Territory of Florida," &c., passed 3d May, 1823. That said claim was embraced by the treaty between Spain and the United States of the 22d February, 1819; and that it has not been decided nor finally acted upon under the provisions of the act of Congress, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," passed 23d May, 1828, or of any of the acts to which said act is supplementary. That said claim has not been reported by said commissioners appointed under any of the aforesaid acts of Congress in such case made and provided, as antedated or forged, and had not been annulled by the treaty aforesaid, nor the decree ratifying the same.

Your petitioners further show, that upon the said petition of said Arredondo, process from this court was duly issued to, and served upon Thomas Douglas, Esquire, attorney for the United States for the district of East Florida, and that the answer of the said United States was duly filed to said petition.

Your petitioners further show, that since the filing of said petition and answer, the said Fernando M. Arredondo has departed this life, leaving your petitioners his only legal heirs. And your petitioners further show, that said suit and proceedings having become abated by the death of the said Fernando M. Arredondo, your petitioners are are entitled to have it revived against the said United States, prosecuted, and carried on, and to have the said cause put in the same state and condition as the same was in previous to the death of the said Fernando M. Arredondo.

To the end, therefore, that the said suit and proceedings which so became abated as aforesaid, may stand revived, and be in the same plight and condition as the same were at the time of the death of the said Fernando M. Arredondo, or that the said defendant may show good cause to the contrary; your petitioners pray that process in this behalf do forthwith issue against Thomas Douglas, Esquire, attorney as aforesaid of the United States, in pursuance of the act of Congress in such case made and provided. And your petitioners will ever pray, &c.

SMITH AND LEVY,
Solicitors for Claimants.

A copy of the foregoing bill of reviver with a scire facias thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district; and the return of the said marshal thereon, is in the words and figures following, to wit:

"Served this 7th day of August, 1834, by delivering a true copy to Thomas Douglas, Esq., United States attorney.

SAMUEL BLAIR, *Marshal.*"

And afterwards, to wit, on the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and thirty-four, Thomas Douglas, Esq., United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said bill of reviver; which is in the words and figures following, to wit:

Answer to Bill of Reviver.

DISTRICT OF EAST FLORIDA, *Superior Court*, 1834.

THE UNITED STATES *ads.* THE HEIRS OF F. M. ARREDONDO, deceased. } Bill of Reviver.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the bill of reviver of Brigida Gomez Arredondo, Dominga Arredondo, Dorothea Arredondo, Theresa Arredondo, Maria Manuella Arredondo, and Rosa Arredondo, who claim as heirs of Fernando de la Maza Arredondo, deceased, on behalf of themselves and other heirs of said Fernando de la Maza Arredondo, deceased.

The said attorney for and on behalf of the same United States, saving and reserving, &c., in answer to the said bill of reviver, or to so much thereof, as it is material and necessary for them to answer unto, answereth and saith, that true it is, that the said Fernando de la Maza Arredondo, did, on the nineteenth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, file his petition in the said court, setting forth his claim to a certain tract of land, containing fifteen thousand acres, as is in said bill alleged and set forth.

This respondent also admits, that said claim has been submitted to the examination of the Board of Commissioners in the said bill mentioned; and that it has not been finally acted upon as the claimants in their said bill have alleged. But this respondent denies, that said claim was embraced by the treaty between Spain and the United States, of the 22d February, 1819, or that it had not been annulled by the said treaty, or by the decree ratifying the same.

This respondent also admits, that upon the said petition of the said Arredondo, process from this court was issued to, and duly served

upon this respondent, and that the answer of the said United States was duly filed to said petition.

This respondent also admits, that since the filing of said petition and answer, the said Fernando de la Maza Arredondo has departed this life, but whether the petitioners are his only legal heirs, or, indeed, whether they are his legal heirs or representatives, this respondent does not know, and cannot, therefore, either admit or deny the same, but leaves the said petitioners to such proof thereof, as they may be able to make upon the hearing of this cause.

This respondent also admits, that the said suit and proceedings have become abated by the death of the said Fernando de la Maza Arredondo, deceased, but whether the petitioners are entitled to have it revived against the said United States or not, this respondent for the reasons above stated, cannot admit.

And this respondent further answering, saith, that he insists on behalf of the same United States, on all such right and interest in the premises, in the said bill of reviver mentioned, as the said United States shall appear to have therein; and this respondent humbly submits the same to the judgment, order, and direction of this honorable court; and also humbly prays that this honorable court will take care of the right aud interest of the United States in the premises; without that, &c.

THOMAS DOUGLAS,
United States Attorney, &c.

And afterwards, before the superior court for the district of East Florida, holden at the courthouse in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty five, to wit, on Friday, the fourteenth day of said term, and the thirty-first day of said month, the following entry of record was made in this cause, to wit:

Hearing of Cause.

THE HEIRS OF F. M. ARREDONDO, Senior, *against* THE UNITED STATES OF AMERICA. } Land Claim, 15,000 acres.

This day came as well the counsel for the said claimants, as the counsel for the United States; and the counsel for the said claimants having filed a bill of reviver in this case on behalf of Brigida Gomez Arredondo, Dominga Arredondo, Dorothea Arredondo, Theresa Arredondo, Maria Manuella Arredondo, and Rosa Arredondo, as heirs of F. M. Arredondo, senior, deceased, on behalf of themselves and the other heirs of the said Fernando de la Maza Arredondo, and process thereupon having been issued and returned executed, and the answer of the United States attorney to said bill being also filed, the said counsel prays that this cause may proceed in the name of the said heirs against the said United States; which is ordered accordingly. And this cause coming on to be heard this day, the petition of the said

claimants, and the answer of the United States attorney, together with the replication of the said claimants were read to the court. The counsel for the said claimants offered in evidence a certified copy by the keeper of the public archives of East Florida, of the original memorial and grant to F M. Arredondo, senior, for 30,000 acres, dated 24th March, 1817, together with a certified translation of the same by the translator and interpreter of this court.

The claimants counsel then offered in evidence the certified copy and translation of the petition for, and order of survey of 15,000 acres, dated 8th June, 1819, to the receiving of which in evidence, the counsel for the United States objected, because the said order bears date after the 24th January, 1818, which objection was overruled by the court; the claimants counsel then offered in evidence the certified copy and translation of the certificate and plat of survey of said 15,000 acres, dated 5th August, 1819, to the receiving of which in evidence, the counsel for the United States objected, because the said survey does not follow the calls of the grant, and bears date after the 24th of January, 1818, which objections were overruled by the court; the claimants counsel then offered in evidence the certified copy and translation of the royal title to Arredondo for 15,000 acres, dated 9th August, 1819, to the receiving of which in evidence, the counsel for the United States objected, because the same bears date after the 24th January, 1818, and because the same does not follow the calls of the concession, which objections were overruled by the court, and the said document admitted in evidence, but subject to the opinion of the court as to its admissibility, on hearing the argument in this cause.

And the evidence and testimony in this case being now concluded, this claim was submitted to the court for its decree thereon.

Evidence offered and read in this cause, at the hearing thereof, on the part of the claimants, and numbered from one to four, inclusive, to wit:

No 1.

TRANSLATION.

Memorial of Arredondo for Grant.

His Excellency the Governor:

Don Fernando de la Maza Arredondo, an inhabitant of St. Augustine, of Florida, residing at this time in the Havana, by the intervention of his son of the same name, and an inhabitant of that said place, represents to your Excellency: That he has the honor of having served His Majesty in several offices and posts, and particularly for more than twenty years in the Indians trade, without salary nor gratification whatever, which office he has filled to the satisfaction of all the governors of that place, promoting peace and good harmony with those savages, in which commission and that of contractor pro tem.

for the Royal Military Hospital of this place, which he has exercised for many years without salary nor gratuities, he has acquired distinguished merits, and has economised to the royal treasury many thousand dollars, as it is well proved to your Excellency, and to the royal departments of this place. Afterwards, when in consequence of his fatiguing occupations, he was exonerated from those commissions, and quitted the service of His Majesty, in order to attend to other affairs, by which he might further the interests of his family. ; he was employed in performing the rounds and the toilsome duties of aid-de-camp to his Excellency the governor pro tem. of this place, Don Juan Jose de Estrada, on the occasion of this province being invaded in the year one thousand eight hundred and twelve, and in consequence of the want of officers to fill that post, which he kept until the year one thousand eight hundred and thirteen, when, in consequence of having been elected by a plurality of votes, and with due solemnity, elector for the parish and district of this province, he was under necessity to repair to the city of Havana, where he remained as one of the deputies who composed the Provincial Assembly, and in the discharge of those offices, he, as a good subject, has incurred many and considerable expenditures, which he always considered as being well applied in behalf of the King and the country, being well persuaded that at some future day he would be remunerated for them; and in effect he has been informed that His Majesty by his royal order of the twenty-ninth of March, of one thousand eight hundred and fifteen, has provided that lands vacant be distributed as a reward to all those individuals who with arms in hand had been employed in the defence of this said province, from the beginning of the insurrection in the year one thousand eight hundred and twelve, and as your petitioner is one of them, and for this reason entitled to the said bounty; and also, in his quality of a settler, who has increased his family and the number of his slaves, and is one of the oldest inhabitants since the armies of His Majesty took possession of this province, and is one of those whom the laws and the royal orders recommend to be attended to, either in their quality of first settlers, or preferred on account of their distinguished services in the said distribution of lands.

Therefore, he supplicates your Excellency be pleased to grant to him in absolute property, thirty thousand acres of land; that is to say, fifteen thousand southwest of the great pond, known under the name of the Lake George, the survey of which to be made in such a manner, that a brook of sweet water which runs there, be in the middle of the front of said tract; and the other fifteen thousand acres west of the river St. Johns, the survey thereof beginning at the old pass of the Chocochate Indians, opposite the place where the house of Panton and Leslie had a store known by the name of Upper Store, south of the great pond known by the name of Lake George, and running south as far as necessary to complete the said number of acres; and whereas the situation and the actual circumstances in which this province is placed, do not permit that the survey and demarkations of the said tracts be effected at this time, and as moreover there is no surveyor to perform the task, as Don George Clark who is appointed by this

Government to the execution thereof, has other occupations, which prevent him to attend to this part. Your petitioner expects from the justice of your Excellency, that you will be pleased to suspend the execution of the titles of property until the delivery by the petitioner of the plots of the said tract; in order that the said titles be extended with exactness in conformity to the situation, limits, and other requisites for the more perfect knowledge of the localities; so that in the interval, the grant which your Excellency will be pleased to issue in his behalf by your subsequent decree, will serve him as a title, as your petitioner wishes that when that will be executed to him, it may contain all the necessary forms and requisites; this favor your petitioner expects to receive from the justice of your Excellency.

St. Augustine, on the 21st of March, one thousand eight hundred and seventeen.

FERNANDO DE LA MAZA ARREDONDO, JR.

Grant to Arredondo.

DECREE.

St. Augustine, on the twenty-fourth of March, one thousand eight hundred and seventeen.

In attention to the services specified by the petitioner, which are proved and of public notoriety, and the exercise of the faculty conferred on me by the laws and the royal dispositions, I grant, in the name of His Majesty, and of his royal justice which I administer, in absolute property to Don Fernando de la Maza Arredondo, senior, the thirty thousand acres of land which he solicits, in the places which he designates, without prejudice to a third party, for which will be issued in his behalf the corresponding titles of ownership, as soon as he produces the plots made by the surveyor, and in the interval he may use as an equivalent in all the parts thereof, this decree concerning the said bounty, which, together with the preceding petition will be registered in the secretary's office of the Government and of the royal domain, wherefrom will be issued in behalf of the interested party a certificate authenticated in due form of all the proceedings, in order that he may prove the existence of said bounty, and enjoy said lands, and dispose of them to his best advantage.

COPPINGER.

Before me, JUAN DE ENTRALGO,
Secretary of the Government.

St. Augustine, 20th June, 1829.—I do certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Superior Court.*

No. 2.

TRANSLATION.

Petition for and Order of Survey.

His EXCELENCY THE GOVERNOR:

Don Fernando de la Maza Arredondo, junior, an inhabitant of this city, and in the name of my father of the same name, now residing in the Havana, and in my quality of his attorney in fact, with due respect states to your Excellency, that by a decree of the twenty-fourth of March, 1817, your Excellency thought proper to grant to his father aforesaid, in absolute property, thirty thousand acres of land, located in the two places which are designated and authenticated in the annexed certificate, and as the unfortunate events of this province have not permitted that the said lands should be surveyed and delineated by the surveyor, General Don Jorge Clarke, who, besides has not had the time to do it, as he has been, and is still engaged, in other affairs of the Government in the northern district, and as your petitioner has now the opportunity of carrying the said survey into effect, by means of Don Andres Burgevin, an intelligent person, who by commission of this Government, has filled the vacancy of the said Clarke, and the said Clarke having on former occasions refused to repair to the localities of the grant for fear of the Indian hostilities, all which impediments have been the cause of his father's being deprived of the titles of ownership to which he is entitled, as it is already expressed in the said decree of the 24th of March, 1817.

Therefore, your petitioner supplicates your Excellency to be pleased to qualify Don Andres Burgevin, in order that he may proceed to the survey, and run the lines of the said tracts, in conformity to the terms specified in the grant thereof, separating from the second location five hundred acres which he shall have to survey, commencing about one mile south of the old pass of the Chocochate Indians, in order that the grant consist in three distinct tracts, one of fifteen thousand acres, another of fourteen thousand five hundred, and the third of the mentioned five hundred; which favor he hopes to receive from the justice of your Excellency.

St. Augustine of Florida, 8th of June, 1819.

FERNANDO DE LA MAZA ARREDONDO, JR.

St. Augustine, 8th of June, 1819, as he solicits the acceptation and oath of Don Andres Burgevin, being previously received, and the adjoining proprietors summoned.

COPPINGER.

Before me, JUAN DE ENTRALGO,
Notary of the Government.

In St. Augustine, on the same day, month, and year, I notified the preceding decree, which precedes to Don Fernando de la Maza Arredondo; which I certify.

ENTRALGO.

On the said day, I notified to Don Andres Burgevin the appointment of surveyor conferred on him, whereupon he said, that he would accept, and he did accept it promising under his legal oath to exercise well and faithfully the functions of his commission, according to his best knowledge and understanding, which I certify.

ANDRES BURGEVIN.

Before me,

JUAN DE ENTRALGO.

I certify the foregoing to be a true and correct translation of the Spanish document annexed.

JOSEPH S. SANCHEZ,
Int. and Tr. Sup. Court E. D. F.

No. 3.

TRANSLATION.

Plat and Cerficate of Survey.

I, Don Andres Burgevin, in my quality as surveyor, appointed by a decree of this Government, issued on the 8th of June of the present year, in favor of the interested party, do certify that I have surveyed and delienated for Don Fernando de la Maza Arredondo, senior, a tract of land which contains fifteen thousand acres, situated west of the Lake George, it being a part of his grant of thirty thousand acres, and the said tract being conformable in all its circumstances to the preceding plot; in testimony thereof, I give the present, which I sign in St. Augustine of Florida, 5th of August, 1819.

ANDRES BURGEVIN.

[For Plat see original, page 23.]

St. Augustine, 24th May, 1832.—I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator and Interpreter of the Superior Court.*

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No. 4.

Royal Title.

Title of property in favor of Don Fernando de la Maza Arredondo for 15,000 acres of land, situated on the west side of Lake George.

Don Jose Coppinger, Colonel of the Royal Armies, Civil and Military Governor, and Chief of the Royal Finance of the City of St. Augustine, Florida, and its Province for His Majesty:

Whereas by royal order of the twenty-ninth of March, one thousand eight hundred and fifteen, His Majesty has been pleased to approve the gifts and premiums proposed by my predecessor, the Brigadier General Don Sabastian Kindelan, for the officers and soldiers both of the line as well as the militia, and other individuals of this province, who contributed in the defence thereof during rebellion, being one of said gifts, the concession of vacant lands. And as Don Fernando de la Maza Arredondo has made known to me the distinguished and extraordinary services he has rendered in the various employments in which he has been employed, with economy and utility to the royal revenue, and for the good of his King and country; as also in the defence of this said province during the invasion of the year 1812, as will be fully seen in the memorial which he has presented me under date of the 21st of March, 1817, according to which, and in consequence of the authority which I exercise, I have thought proper by my decree of the twenty-fourth of the same month of March, to accede to his prayer, stating, as a remuneration, there should be granted him, thirty thousand acres of land, with a title of absolute property, which have been designated in three distinct places, one of which comprising 15,000 acres, is situated on the west side of Lake St. George, known by the name of Lake George, the dimensions and boundaries of which are in the following form:

The first line commences at a palm tree, marked ✕, on the banks of the lake, runs south 75° W. 400 chains, and ends at a pine; the second line runs N. 25° W. 400 chains parallel with its front; the third line runs North 75° E. 400 chains, and ends at a palm tree, marked ✕, on the banks of the lake, in which land there is comprised a tract of one thousand acres, belonging to Don George Clarke, situated at the mouth and on the southern bank of a creek, as will be fully seen by a plat made by the surveyor, Don Andres Burgevin, dated the 5th instant, and according to my decree of the 8th of June of the present year, authorising him for that purpose, and in virtue of what is set forth in the said decree of concession of the 24th of March, 1817, all of which united from the proceedings filed in the archives of the present notary.

Wherefore, and in consideration of said recommendable services agreeable to the will of the Sovereign, and what is set forth in the laws, to recompense with distinction those who may be worthy, according to the nature of said services, and the individuals who have rendered them, I have thought proper to grant, and by these presents, do grant to the aforesaid Don Fernando de la Maza Arredondo, the

above mentioned 15,000 acres of land in the place pointed out, without injury to a third, for himself, his heirs, and successors, in absolute property, and in granting as I do by these presents, grant him the corresponding title, by which I separate the royal domain from the right and dominion it had to said land, and I cede and transfer the same to the said Don Fernando de la Maza Arredondo, his heirs and successors, that in consequence thereof, they may possess it as their own, make use of, and enjoy it free from any encumbrance whatever, with all its entrances, outlets, uses, customs, rights, and appurtenances, which it had, or may by right belong or appertain thereto, and being their will, they may sell, cede, transfer, and alienate it, as they may think proper. To all of which I interpose my judicial authority as far as possible, and according to law, in virtue of the sovereign will.

Given under my hand, and countersigned by the undersigned notary of Government and royal finance in said city of St. Augustine, Florida, the 9th of August, 1819.

JOSE COPPINGER.

By order of his Excellency:
JUAN DE ENTRALGO, *Notary of Government and Royal Finance.*

St. Augustine, 29th May, 1830.—I certify that the preceding is a correct translation of the Spanish document annexed.
A. GAY, *Translator and Interpreter of the Superior Court.*

And afterwards, before the superior court for the district of East Florida, holden at the courthouse in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday, the tenth day of said term, and the fourth day of the month of September, the following decree of confirmation was entered of record in this cause, to wit:

Decree of Confirmation.

Brigida Gomez Arredondo, Dominga Arredondo, Dorothea Arredondo, Theresa Arredondo, Maria Manuella Arredondo, Rosa Arredondo, and other heirs of Fernando de la Maza Arredondo, deceased, *against* The United States of America.	Land Claim, 15,000 Acres.

Whereas Fernando de la Maza Arredondo did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the 19th day of May, 1829, file his petition for the confirmation of certain land therein mentioned, in the clerk's office of the superior

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SUPREME COURT OF THE UNITED STATES.

No. 27.

THE UNITED STATES, APPELLANT,

vs.

ANDREW BURGEVIN.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

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SUPERIOR COURT, *East Florida.*

Be it remembered that on the twenty-first day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Andrew Burgevin, by Benjamin A. Putnam, his attorney, brought and filed in the clerk's office of the said court, his petition or claim for certain lands therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition to the Court.

SUPERIOR COURT FOR EAST FLORIDA.

ANDRES BURGEVIN
vs.
THE UNITED STATES.

To the honorable Joseph L. Smith, judge of the superior court for the district of East Florida, and specially authorized by law to receive and adjudicate claims to land within said district:

The petition of Andres Burgevin respectfully showeth unto your Honor, that he claims title to a tract of land containing five miles square, or sixteen thousand acres of land, situated within the district of East Florida aforesaid, and within the jurisdiction of this honorable court, situated on what is called Pellicer's creek, and about twenty miles to the south of St. Augustine.

Your petitioner further showeth that his title to said land is derived from a grant made to him by the Spanish Government, marked exhibit A, and hereto annexed, dated the 13th day of January, 1818.

Your petitioner farther showeth that said tract of land was granted to him on the condition and for the purpose that he should there construct a water saw-mill; and that said grant should not be considered nor held valid until said mill was constructed. Your petitioner avers and declares that he has been prevented from constructing said mill and proceeding in the objects of said grant, owing to the general disturbed and unsettled state of the country; yet your petitioner intends, nevertheless, to proceed to the establishment of said mill as soon as he shall know that he will be secure of his grant being acknowledged by the United States, which uncertainty has also been another cause that has prevented your petitioner from incurring the very great expense that must necessarily attend such an establishment.

Your petitioner farther showeth that his claim to said land was submitted to the examination of the Board of Commissioners, appointed under, and in virtue of an act of the Congress of the United States of America, entitled "An act amending and supplementary to, an act for ascertaining claims and titles to land in the Territory of

Florida, and to provide for the survey and disposal of the public lands in Florida," passed the 3d day of March, 1823.

And your petitioner farther showeth that the land above claimed is embraced by the treaty between Spain and the United States of the 22d February, 1819; and that it has not been decided or finally settled, under the provisions of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," passed 23d day of May, 1828, or of any of the acts to which the said last recited act is supplementary.

And your petitioner farther showeth that his claim contains a greater quantity of land than the commissioners appointed under the said act of Congress were authorized to decide, and above the quantity confirmed by the aforementioned act of Congress, passed the 23d day of May, 1828; and that the claim of your petitioner to said land has not been reported by the said commissioners appointed under any of the aforesaid acts of Congress or any other, or by the register and receiver acting as such, under the several acts of Congress of the United States, in such case made and provided, as antedated or forged; and that the said claim hath not been annulled by the aforesaid treaty between Spain and the United States, nor by the decree of the King of Spain ratifying the same.

Wherefore, your petitioner prays that the validity of his claim may be inquired into and decided upon by this honorable court; and that, in pursuance of an act of the Congress of the United States for that purpose, in that case made and provided, the United States be made a party defendant to this petition; and that process do forthwith issue against Thomas Douglas, Esq., the attorney for the United States in the eastern district of Florida, according to the provisions of the said act of Congress above alluded to. And your petitioner will ever pray, &c.

B. A. PUTNAM,
Atty. for Petitioner.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district to serve on the attorney of the United States for the same district; and the return of the said marshal thereon, is in the words and figures following, to wit: "Served copy on Thos. Douglas, Esq., Dist. Atty.," 4th June, 1829."

"WATERS SMITH,
Marshal."

And, afterwards, to wit, on the first day of August, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, Esq., United States attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

SUPERIOR COURT, NOVEMBER TERM, *in the year* 1829.

THE UNITED STATES OF AMERICA
ads.
ANDREW BURGEVIN.

The answer of Thomas Douglas, United States attorney for the district of East Florida, to the petition or bill of complaint of Andrew Burgevin:

The said attorney, in the name, and for and on behalf of the United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects, and irregularities, in the said petition or bill of complaint contained for answer thereunto, or unto so much thereof as it is material and necessary for them to answer unto, answereth and saith, that whether any such grant was made to the said Andrew Burgevin for a tract of land containing five miles square, or sixteen thousand acres of land, situated on what is called Pellicer's creek, and about twenty miles south of St. Augustine, as the said Andrew Burgevin has in his petition or bill of complaint aforesaid, alleged, set forth, and described, this respondent has no knowledge, and cannot, therefore, either admit or deny the same; but respectfully prays this honorable court to require of the said Andrew Burgevin upon the hearing of this cause, due proof of the making and execution of the said supposed grant, (if any such was ever made to him,) and of all the matters and things, as in said petition or bill of complaint alleged and set forth, as they are therein stated, according to law, and the usages of courts of equity.

And this respondent suggests that, if the said Andrew Burgevin has a grant for the said tract of land, (which is not admitted) the same was not made by the Spanish Government, as is in said petition or bill of complaint alleged, but by Don José Coppinger, who was acting governor of the said province of East Florida at the time when the said supposed grant is alleged to have been made, as appears by the showing of the said Andrew Burgevin himself, in his said exhibit, marked A, and to the said petition or bill of complaint annexed. And this respondent avers that, if the said Governor Coppinger made the said supposed grant, he made it without any power or authority from the said Government of Spain to do so. And farther, that if the said grant was made as last aforesaid, it was made contrary to, and in violation of the laws, ordinances, and royal regulations of the said Government of Spain, which were in force in the said province of East Florida at the time when the said supposed grant of lands is alleged to have been made as aforesaid, providing for the granting of lands in its provinces, of which said provinces of East Florida was then one, as will more fully appear by reference to the laws, ordinances, and royal regulations aforesaid, which this respondent prays leave to introduce and read on the hearing of this cause.

And this respondent farther avers, that no power or authority had been conferred by the Spanish Government aforesaid, upon the said Governor Coppinger at the time when the said supposed grant of land is alleged to have been made as aforesaid, to make grants of land in East Florida of the magnitude and description of the one now claimed and described by the said Andrew Burgevin in this suit. And this respondent farther prays this honorable court that the said Andrew Burgevin may be required to shew and prove on the hearing of this cause, the making and execution of the said document marked exhibit A, as aforesaid, if any such document was ever made and executed; and, also, that he may be required to show and prove the specific powers which had been conferred (if any power had been conferred) by the Spanish Government upon the said Governor Coppinger at the time when the said supposed grant of land is alleged to have been made as aforesaid, to make grants of land in East Florida; and particularly that he may be required to show and prove the specific powers under which the said Governor Coppinger claimed to act in making the said supposed grant, if indeed any such grant was ever made by him.

And this respondent farther avers, that if the said Andrew Burgevin has any grant for the said tract of land, the same was made to him, as appears by his own showing, upon the express and precise condition that he should construct and erect a water saw-mill thereon; and that, until he erected or constructed the said water saw-mill on the said tract of land so situated on the said creek called Pellicer's creek as aforesaid, the said supposed grant should not be considered nor held valid, but would be considered as null and void, and without effect or value. And this respondent avers, that the said Andrew Burgevin has not built, constructed, or erected the said water saw-mill on the said tract of land, but that he has always hitherto wholly failed and neglected to construct or erect the same, or to comply with, and perform the said conditions in any way or manner whatever. And this respondent denies that the said Andrew Burgevin has been prevented from constructing and erecting said mill and proceeding in the objects of said grant, owing to the general disturbed and unsettled state of the country. And farther, if any such disturbed and unsettled state of the country at any time existed, it was merely temporary, and of very short continuance; whereas, more than eleven years has elapsed (as appears by the showing of the said Andrew Burgevin himself) since the date of the said supposed grant, during any part of which period the said Andrew Burgevin might, with due and reasonable diligence, have proceeded to erect and construct the said water saw-mill on the said tract of land, in accordance with the objects of said supposed grant.

And this respondent farther saith, that if the said supposed grant marked exhibit A, and annexed to the said petition or bill of complaint as aforesaid, was made (as it purports upon the face of it to have been, which is not admitted) by the said Governor Coppinger to the said Andrew Burgevin; and if the said Governor Coppinger had been invested by the Spanish Government with competent power

and authority to make the same, and the said water saw-mill had been erected thereon, according to the terms and conditions of the said supposed grant, the said Andrew Burgevin, even in that case, would not, by virtue of said supposed grant, have any right of soil in or to the said tract of land whatever, nor any right thereto except the faculty to use the pines (or pine trees) comprehended within a square of five miles.

And this respondent farther saith, that if the said supposed grant so marked as exhibit A, and annexed to the said petition or bill of complaint as aforesaid, was made in manner and form as aforesaid, which is not admitted, it was made in consideration of the advantages and benefit which the said Governor Coppinger supposed the said province would then receive, by the immediate erection of the said water saw-mill, the establishment of which had been proposed by the said Andrew Burgevin, as he then alleged, to the said Governor Coppinger, with a view not only to remedy the notable want of lumber, which, as he then said, was felt in this place, to wit, in St. Augustine, but also to supply the export trade of that article. And this respondent avers, that the time has long since gone by when the erection of the said water saw-mill would have been of such great advantage to this province; and that all the benefit and utility which either the said province or the Government would have derived from the erection of the said mill, has been lost by the laches of the said Andrew Burgevin himself. And this respondent suggests, that the aforesaid proposition of the said Andrew Burgevin to erect the said water saw-mill; and the advantage and utility which he represented, would result therefrom, were all a mere pretence for the purpose of obtaining the said supposed grant, made without any prospect or intention of building or erecting the said mill; and that the said Andrew Burgevin had not then, nor has he had since, the means of erecting so costly an establishment.

And this respondent farther saith, that at the time when the said supposed grant is alleged to have been made, it was, and for a long space of time had been, the fixed and settled policy of the Government of Spain to parcel out its colonial domain with reference to the sole objects of increasing the population of its provinces, and of benefitting its indigent subjects; and that according to that policy, grants of land for the purpose of speculation were never approved or tolerated by said Government, and that the aforesaid supposed grant was obtained by the said Andrew Burgevin, if it was obtained at all, for the purpose of speculation only.

And this respondent farther saith, that if the said supposed grant was made in manner and form as aforesaid; and if the said Governor Coppinger had competent power and authority to make it, which is not admitted,) the express condition aforesaid, upon which it was made, was the act of a sovereign, and was not a matter for judicial inquiry, whether any circumstances had occurred to excuse a non-compliance with the condition; but it was competent only for the Sovereign, who had imposed the said condition to release it, or to excuse a non-compliance with it. And now to the sovereign power

alone of the said United States, who have taken under the said treaty in the said petition or bill of complaint mentioned, the place of Spain, does the authority rest to decide whether any circumstance has cocurred to excuse a non-compliance with that condition, or to release it.

And this respondent farther suggests, that if the said Andrew Burgevin has any grant of the said tract of land, the same was made since the twenty-fourth day of January, in the year one thousand eight hundred and eighteen; and that it was rendered entirely null and void by the latter clause of the eighth article of the aforementioned treaty.

And this respondent admits that the said Andrew Burgevin submitted his claim to said tract of land to the Board of Commissioners in his said petition or bill of complaint mentioned; and that the said Board of Commissioners reported unfavorably thereon.

And now, having fully answered all the matters and things in the said petition or bill of complaint contained, the said attorney prays that the said United States may be hereof discharged; and that their reasonable costs and charges by them in and about the defence of this suit, paid, laid out, and expended, and be adjudged and decreed to them, &c.

THOS. DOUGLAS.
United States Attorney, &c.

And afterwards, to wit, on the third day of August, in the year of our Lord one thousand eight hundred and thirty, the said attorney of the United States for this district, brought and filed in the clerk's office aforesaid, his amendment to the foregoing answer; which is in the words and figures following, to wit:

Amendment to Answer.

THE UNITED STATES *ads.* ANDREW BURGEVIN. } Amendment to the answer. Claim for 16,000 acres of land.

And this respondent farther saith, that Don Ruperto Saavedra, Senor Auditor of War of said province, on the 27th day of October, in the year 1818, made an official report to the said Don José Coppinger, Governor, &c., as aforesaid, upon various matters which had been previously submitted to his consideration as Auditor of War as aforesaid, by the said Governor Coppinger, relative to grants and concessions of land before that time made in said province; and, amongst other things, upon the rights of those persons to whom grants or concessions of land had been made, upon condition of their establishing mechanical works, such as factories, saw-mills, &c. The 8th article of which said report is in substance as follows, to wit: "The assignment of large portions of country which have been made for the establishment of factories to persons who did not then comply, nor have since presented themselves to establish their

mechanical works, ought to be considered without any right or value, and said land declared perfectly free, that they may revert to the class of public lands; in this particular, also, the conditions for which they have been granted, should be referred to in case any of them should have no limits, an equitable time be specified for the establishment of the works, which being passed without carrying them into effect, they be declared vacant." And this respondent saith, that the said Don José Coppinger, Governor, &c., as aforesaid, afterwards, to wit, on the 29th day of the same month of October, in the said year 1818, by his decree of that date, adopted and confirmed the said report, and ordered, and directed, and decreed, that it should be complied with, assigning the term of six months from the date last aforesaid, for the establishment of the mechanical works referred to in the 8th article thereof, on the terms therein expressed; all of which will more fully appear by reference to the said report and decree, as published in White's Compilation of Spanish Laws, Ordinances, &c., from page 250 to 253, which this respondent prays leave to introduce and read on the hearing of this cause. And this respondent avers, that the said Andrew Burgevin did not build or establish the said saw-mill within the said term of six months, but wholly failed and neglected so to do, as appears by the showing of the petitioner himself; and that all the right and title of the said Andrew Burgevin, if any he had, in or to the said tract of land under the said supposed grant or concession, was entirely annulled and taken away, by virtue of said decree so made as aforesaid; and that the said lands become, and were perfectly free and reverted to the class of public lands at the expiration of said term of six months.

And this respondent farther saith, that the same Ruperto Saavedra, "Senor Auditor of War," as aforesaid, in another official report, made by him upon the same subjects, at the instance of the said Governor Coppinger, on the 18th day of January, in the year 1819, amongst other things, reported in substance as follows, that is to say, "although no royal order nor the regulations speak of the concessions of lands for the establishment of mechanical works, it is very obvious that it being the will of His Majesty to improve the province, which he has taken so much interest in, dispensing for the purpose copious favors, the Governors had the privilege of granting lands for the establishment of said works, with the same inducement of proprietorship to all those who contributed by their expenditures to works of so much utility to the improvement of industry; nevertheless, it is certain that many individuals who have obtained such concessions, have remained in inaction, without having, for so long a period, advanced the establishment of said works, it appears just that such concessions, which have remained in inactivity, should be declared null, and of no effect; but not so against those which have advanced the establishment of their works, since, by their industry and expenditures, they have made themselves entitled to every protection to animate their perseverance." And this respondent saith, that on the same day and year last aforesaid, the said Don José Coppinger, Governor, &c., as aforesaid, adopted and confirmed the report last afore-

said, and by his decree of the same date, ordered, directed, and decreed, that it should be complied with, as will more fully appear by reference to the report and decree last aforesaid, as published in the compilation aforesaid. And this respondent farther saith, that at the time last mentioned, the said Andrew Burgevin had not [nor has he since] advanced the establishment of the said saw-mill in any manner whatever, as appears by his own showing; and that the said supposed grant or concession was entirely annulled and set aside by the decree last above mentioned, if, indeed, it was not originally (or had not before that time become) entirely null and void.

THOS. DOUGLAS,
United States Attorney, &c.

And afterwards, to wit, on the second day of October, in the year of our Lord one thousand eight hundred and thirty, the said claimant, by his attorney, brought and filed in the clerk's office aforesaid, his replication; which is in the words and figures following, to wit:

Replication.

SUPERIOR COURT, IN CHANCERY, *October term*, 1830.

ANDREW BURGEVIN *vs.* THE UNITED STATES. } Replication.

The replication of Andrew Burgevin, complainant, to the answer of the United States, and the amendment of said answer, defendants, by their attorney, Thomas Douglas, Esq.

This replicant, saving and reserving to himself all and all manner of advantage of exception; uncertainties and insufficiencies of the answer of the said defendants, for replication thereunto saith, that he doth, and will aver, maintain, and prove his said bill to be true, certain, and sufficient in the law, to be answered unto by the said defendants; and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by the replicant, without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and herein and hereby well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this replicant is ready to aver, maintain, and prove, as this honorable court shall direct, and humbly prays as in and by his said bill of complaint, he hath already prayed.

B. A. PUTNAM,
Sol. for Compt.

2nd Oct., 1830.

And afterwards, before the superior court for the district of East Florida, holden at the court house in the city of St. Augustine, at

the term of October, in the year of our Lord one thousand eight hundred and thirty, to which term this cause had come by regular continuance, to wit, on Monday, the sixth day of said term, and the eighteenth day of said month, the following entry of record was made in this case, to wit:

Hearing of Cause.

ANDREW BURGEVIN *vs.* THE UNITED STATES. } Land Claim.

This day came as well the counsel for the said claimant as the attorney of the United States, and the said claimant, by his counsel, offered in evidence a copy from the office of the keeper of the public archives, of the original grant on which this claim is founded, to the receiving of which, in evidence, the said attorney for the United States objected, alleging that the original grant itself should be produced, and its *execution* proved, before it could be admitted in evidence, and that the original only could be received in evidence; which objection, after argument from the counsel, was overruled by the court, and the copy from the office of the keeper of the public archives, certified according to law, was ordered to be received in evidence; and the court further ordered, that though, by the express statute of this Territory, copies are to be received in evidence, yet, in cases where either the claimant or the United States shall suggest that the *original*, in the office of the keeper of the public archives, is deemed necessary to be produced in court; on motion, therefore, a subpœna will be issued by order of the court, to the said keeper, to appear and produce the said original in court for due examination there. This claim was then submitted to the court for its decree thereon.

And afterwards, before the superior court for the district of East Florida, holden at the court house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-four, to which term this cause had come by regular continuance, to wit, on Wednesday, the fifth day of said term, and the twenty-third day of said month, the following entry of record was made in this cause, to wit:

Order submitting Case rescinded.

ANDREW BURGEVIN *against* THE UNITED STATES OF AMERICA. } Land claim 16,000 acres.

This day came as well the counsel for the said claimant as the counsel for the United States; and, on motion of the claimant's counsel, it is ordered by the court, that the order entered in this case at the October term, 1830, of this court, submitting the same to the court for its decree therein, be, and the same is hereby, rescinded.

And afterwards, before the superior court for the district of East Florida, holden at the court house, in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to which term this cause had come by regular continuance, to wit, on Monday, the tenth day of said term, and the fourth day of September, the following entry of record was made in this cause, to wit:

Hearing Continued.

ANDREW BURGEVIN
vs.
THE UNITED STATES OF AMERICA. } Land claim 16,000 acres.

This day came as well the counsel for the said claimant as the counsel for the said United States, and with the consent of the counsel for the United States, the claimant's counsel offered in evidence in this case, all the testimony of Joseph S. Sanchez, Philip Solano, and Raphael D. Fontane, taken in the case of Elizabeth Wiggins against the United States, on the part of the claimant, relating to the disturbed State of the country, under the agreement of counsel, filed in said case of Elizabeth Wiggins; the counsel for the United States offering in evidence all the testimony of the said witnesses taken in the same case, on the part of the United States, relating to the same subject, under said agreement.

(NOTE.—This claim was submitted to the court on the third day of the term.)

Evidence and *testimony* offered and read in this cause at the hearing thereof, and numbered *one* and *two*, to wit:

Memorial for Grant.

(No. 1.)

[TRANSLATION.]

HIS EXCELLENCY, THE GOVERNOR:

Don Andres Burgevin, a recent inhabitant of this province, with due respect, represents to your Excellency, that he wishes to undertake the erection of a water saw-mill on the creek known under the name of Pellicer's creek, at about twenty miles south of this place, where the Chocochate road crosses (said road being intended to be the centre) with a view not only to remedy the notable want of lumber which is felt in this place, but also to supply the export trade of that article, so much recommended to this Government by the superior authority of Havana; but, as before entering in so costly an enterprise, your petitioner ought to secure a quantity of land sufficiently extensive to provide all the timber which he may want for the buildings and the supply of the mill, and to indemnify himself for his great

expenditures. Wherefore, he most respectfully supplicates your Excellency, that, in attention to the preceding representation, and to the well understood advantages which, from such an establishment, may accrue to the province, and to the Royal Treasury, be pleased, in consequence, to grant him a square of five miles of land, or the equivalent thereof, for the required supply of timber in the said mentioned place, under the same conditions imposed on other inhabitants who have obtained the same privilege; which favor he doubts not to receive from the justice of your Excellency. St. Augustine, 7th January, 1818.

ANDRES BURGEVIN.

Grant.

St. Augustine, 13th January, 1818.—In consideration of the advantages and benefit which the province will receive if the establishment proposed by Don Andres Burgevin is carried into execution, I hereby grant to him the permission of erecting a water saw-mill on the creek called Pellicer's creek, without prejudice to a third party, with the precise condition that, until he erects said machinery, said grant will be considered as null and void, and without effect or value until such an event takes place; and then, in order to indemnify him for the great expenditures which he is preparing, he will have the faculty to use the pines comprehended within the square of five miles, or the equivalent thereof, which he solicits, and which are granted to him; the advantages of which he will enjoy for the use of said saw-mill, without any other person having the faculty of taking any thing therefrom, and at all events. In testimony thereof, this petition and the decree, will be deposited in the Secretary' office, and a certified copy of the whole proceedings will be issued to the interested party for his security.

COPPINGER.

St. Augustine, 31st July, 1829.—I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY,
Translator and Interpreter of the Superior Court.

(No. 2.)

SUPERIOR COURT, *East Florida.*

ANDREW BURGEVIN *vs.* THE UNITED STATES. } Land claim 16,000 acres.

Testimony of Joseph S. Sanchez, Philip Solano, and Raphael D. Fontane, taken in open court in the case of Elizabeth Wiggins against the United States, relating to the disturbed state of the country, and read in evidence in this case at the hearing thereof, to wit:

TESTIMONY OF JOSEPH S. SANCHEZ.

Examined by Counsel for Claimant.

Question. Do you know where Lake George is situate?

Answer. I have never been there. I believe it is situated south and west of this place. I do not know where it is. I cannot say how far distant it is from this place. It is on the river St. John's somewhere.

Question. Are you not able to state that it is up the river St. John's, and a considerable distance south of Palatka, and that it is in the neighborhood of Spring Garden?

Answer. I know that it is up the river St. John's, south of Palatka. I do not know how far it is from Palatka. I have never been in that section of the country.

Question. Will you not be pleased to state whether it is not south of the junction of the Ocklewaha with the St. John's?

Answer. I can't say.

Question. Are you able, or not, to state whether, or not, it was considered unsafe to settle in that portion of this province, and around and contiguous to Lake George, in the years 1815 and 1816, and from that time till the transfer of the province to the United States?

Answer. Yes; it was generally believed unsafe to travel any where south and west of this place, before, and even since, the transfer of the country. I believe there were one or more prosecutions for murders committed sometime after the change of flags, by the Indians.

Question. Had not the attack of Genl. Jackson on the Indians, in 1817 or 1818, the effect of driving them in large bodies from the Alachua country towards the eastern part of the province, and especially to the banks of the river St. John's?

Answer. Yes; they were driven as far even as St. Augustine.

Question. Was it, or not, the common report and understanding of the people in this part of the province, that from about the year 1816 to the time of the cession, the shores and neighborhood of Lake George were the places of especial and common resort by the Indians?

Answer. I don't know that it was more a place of resort than any other even north of this place. I heard of the Indians committing several murders about Flemming's island, or in that vicinity somewhere.

Question. From what did the unsafe condition of this province result in Spanish times?

Answer. It resulted from the frequent incursions of the people from the borders of Georgia, together with those on this side, and the unsettled state of the Indians, who were never controlled by the Spanish Government at all, and who were always ranging through the province.

Question. Would negro property particularly, on small plantations and settlements, on the river St. John's, and especially high up the river, have been safe within the periods you have spoken of?

Answer. They were not considered safe. I know of several cases where they were kidnapped by the persons I have mentioned in my preceding answer.

Examined by the United States Attorneys.

Question. You have said it was dangerous to travel to the south and west of this before the delivery of the province to the United States. Were there no persons settled in the country to the south and west of this previous to that time?

Answer. There were two or three people settled about Musquito, but they were obliged to pay pretty dearly for it. They had to give the Indians presents every time they came down there, to keep them quiet.

Question. How long had these persons been settled there, and how long before the change of flags had there been any molestation of those persons by the Indians?

Answer. There were never more than four or five persons settled at Musquito. I don't know how long they were settled there. The old ones died off and others took their places; and they were obliged to pass as Englishmen to be allowed to stay down there by the Indians. These persons were always troubled by the Indians, who saved them the trouble of reaping all their crops, by stealing their corn and provisions.

Question. Were you at Musquito within the time you mention, or how do you know that the Indians committed the depredations you have stated?

Answer. I don't exactly recollect the first time I went down to that section of the country. I was down there once, when a party of Indians came to the house of Mr. Hunter, and they seemed to think that every thing belonged to them. Even now the Indians are sometimes in the habit of stealing provisions.

Question. Is it not the character of the Indians to plunder the plantations whenever they have an opportunity?

Answer. I believe that is their general character; but they were in the habit of doing it more frequently in this section of the country, because the inhabitants and Spanish Government were not strong enough to keep them in subjection.

Question. You have said that there were no settlers on the St. John's river. To what part of the river do you intend to apply the remark?

Answer. On the river south and west of Musquito. I meant to apply the remark to the river generally on the east side, from its head down to the neighborhood of Picolata.

Question. What number of persons were there settled at Picolata?

Answer. I believe there were no other persons living at Picolata but Mr. Warton and family, and Mr. Roudon and his family. I believe there were no inhabitants then on that side of the river till

you got down to Judge Fatio's, and down to Julington creek, where there were a good many inhabitants settled.

Question. Do you recollect to have heard of any disturbance among these inhabitants, occasion by the Indians, after the revolution of 1812 to 1813?

Answer. Yes; the Indians were always troubling them, and they are doing so now; killing their stock in the neighborhood of Picolata.

Question. Was there any other disturbance among them other than that you have mentioned?

Answer. I can't say. I have no recollection.

Question. Do you know of a single instance under the Spanish Government, of a white person having attempted to make a settlement on Lake George?

Answer. I can't say that I ever heard.

Question. Do you recollect to have heard of any person going direct to Lake George during the time the Spaniards remained in this country?

Answer. I don't know that I ever heard of any person going direct to Lake George. There were a few persons, not more than four or five, that were in the habit of travelling that country, trading with the Indians.

Question. Was not the whole country in the neighborhood of Lake George an uninhabited wilderness during the whole period of the Spanish occupancy of this province?

Answer. I expect it was. No one would have gone there to settle, for they did not consider it safe to go there.

Question. At what time did the last revolution of the province terminate, and was not the country as tranquil from that time as it was at any other period, until the delivery of the province to the United States?

Answer. The revolution, I believe, terminated the latter end of 1812 or in 1813. I do not recollect the time exactly. The country was never more untranquil than it was from that time till the exchange of flags; the country was more untranquil from that time till the exchange of flags than at any other time, by the incursions of those people he has mentioned from Georgia.

Question. Were the persons you have mentioned from Georgia, troublesome to the Indians or to the Spaniards?

Answer. They were troublesome to both. They plundered and murdered the white people as well as the Indians.

Question. Was the disturbance greater after the year 1815, than it had been before that time?

Answer. I think that it was. After the revolution the country continued very disturbed till after the change of flags. I think it became more tranquil about a year before the change of flags, but not so tranquil as to induce persons to settle till a few years after the change of flags.

Question. Did any person within your knowledge, attempt to

make a settlement at a distant and remote place, during the period from 1812 till 1821?

Answer. Yes; I think there were one or two attempts made to settle that part of country. Arredondo attempted to settle the Alachua grant, and Joseph M. Sanchez attempted to settle at Dun's Lake. There may be others that I know nothing about.

Question. Did these persons make their settlements?

Answer. I think Jos. S. Sanchez did not succeed. I believe the Arredondo's were four or five years in making a settlement. They had to make negotiations with the Indians.

Question. What attempt did Mr. Sanchez make to settle at Dun's Lake?

Answer. I believe he went out there, and took some negroes with him, but he was obliged to come back. I think this was just before, or immediately after, the change of flags. He did not abandon the land. He afterwards went there and settled the place, and lived there five or six years, till he was taken sick, when he came to town and died.

Question. At what time did Mr. Sanchez make his settlement on Dun's Lake?

Answer. I think the time when he first went out to Dun's Lake was in 1817 or 1818; and the last time when he went out to settle, and did effect a settlement, was after the change of flags; how long after I do not recollect.

Examined by Claimant.

Question. You said, in answer to an inquiry from the counsel for the United States, that there were no settlements except of Indians on the river St. John's, especially on the east side of it, above Picolata. Will you state the distance and direction of Picolata from St. Augustine?

Answer. It is directly west, about 18 miles distant.

Question. Was not the province and the Indians in it, particularly, disturbed after 1815 by the invasion of the province on the west, by General Jackson, and at the St. Mary's by General Gaines?

Answer. It was disturbed by the invasion of General Jackson, who drove the Indians down upon us, and they stole our property, and every thing else. I don't know how much the invasion of Genl. Gaines troubled the country.

Question. Were not the Indians, by the force and fear of General Jackson, subsequent to 1815, driven, in great numbers, into and over East Florida, from the west of the Sawanee?

Answer. Yes, they were so; and even to St. Augustine.

Question. Were not the plantations at the south and west of St. Augustine, so far as any were established, after 1815 to the transfer, constantly liable to have their negroes kidnapped by the patriots from Georgia and the St. Mary's?

Answer. There were some instances where they were taken, and, I believe, one or two instances where they were shot.

Question. Could not a person, to whom a concession had been made, according to the practice and usage of the Spanish Government, enter upon the performance of the condition of possession and cultivation, at any period after the concession, provided the Government had not previously granted the land to another?

Answer. I believe they could, that is, if they had been disturbed at any time from going on the land, and if the Governor had not granted the land to another person.

Question. Suppose a concession made upon head rights, could not the grantee enter upon the land for the purpose of cultivating it at any time while it remained ungranted to another?

Answer. I don't know; it depended upon the will of the Governor; sometimes he directed that the party should take possession within a limited time, at other times he did not limit the time at all.

Examined by United States Attorneys.

Question. Were the Indians driven into this province by the invasion of Genl. Jackson on the west, until the month of May, 1818?

Answer. I don't recollect exactly the time. It was sometime in 1818.

TESTIMONY OF PHILIP SOLANO.

Philip Solano, sworn as witness in open court, on behalf of the claimants.

Question. Are you a native born inhabitant of East Florida?

Answer. Yes.

Question. Have you been a constant resident of the province?

Answer. Yes.

Question. Be pleased to state your age?

Answer. I am fifty-one years old.

Question. Were you in Spanish times engaged in the licensed trade with the Indians of the province, and if so, for what period?

Answer. Yes; we traded with the Indians when we pleased. We had no limited time. I was in trade with them for about twenty years before the cession.

Question. Do you know where Lake George is situated?

Answer. Yes; it is situated on the river St. John's, about sixty or seventy miles south of this place.

Question. Will you be pleased to state, as near as you can, how far Lake George is above Picolata?

Answer. I declare I cannot say; I have never been there by water, but it may be, in a straight line, about sixty miles. The river is very crooked.

Question. Are you able to state, whether or not, it was considered unsafe to settle in that portion of the province, and around and contiguous to Lake George, in the years 1815 and 1816, and from that time to the transfer of the province to the United States?

Answer. Yes.

Question. Were not the Indians, by the force and fear of General Jackson, subsequent to 1815, and at the time he invaded West Florida, driven in great numbers into and over East Florida, from the west of Sawanee?

Answer. They were so.

Question. Will you be pleased to state, if you know, whether or not Lake George and its neighborhood was or was not a place of frequent and common resort of the Indians?

Answer. Yes; it was a common resort of the Indians, more so in the winter. They resided there more in the winter than at any other time.

Question. Will you state whether, at the time the Indians were driven in from the west by General Jackson, they did not particularly resort to, and in great numbers harbour about, Lake George?

Answer. Yes; a great many.

Question. Will you be pleased to state whether negroes, or other property, upon the river St. John's and to the south and west of St. Augustine, from 1815 to the transfer of the province, was considered safe?

Answer. No.

Question. Do you consider that a small settlement could have been made and occupied with safety on the banks of Lake George, or its neighborhood, for any considerable time, during any period between the years 1815 and the time of the cession?

Answer. I don't believe it could be done.

Question. Do you know of any particular incursion upon the province, or disturbances, between the years 1815 and the cession? If you do, be pleased to state them, and the time they occurred.

Answer. I do not recollect.

Question. Were not some of McGregor's men killed at Musquito?

Answer. Yes; some of them were killed there, that came there in a boat, I understand.

Question. Where did those men of McGregor's go from, and for what purpose did they go to Musquito?

Answer. I can't say exactly; I heard they went from St. Mary's.

Question. Did or did not East Florida remain in a very unsafe and unsettled state, for some years after the cession?

Answer. Yes.

Question. Was negro property safe or unsafe on the St. John's river, particularly high up the river, between 1815 and the cession?

Answer. I never considered them safe.

Question. Was or was not a great number of negroes kidnapped and carried off from the St. John's between 1815 and the cession?

Answer. I don't recollect of any in particular being taken away. Some ranaway.

Examined by U. S. Attorneys.

Question. You have said you have been frequently at Lake George.

Will you state, if you please, what you suppose to be the extent of the Lake, in width and breadth, and whether or not, it is not a very extensive sheet of water?

Answer. I have never been for the purpose of examining the place. I don't know the length or the width of it. I have seen the Lake often, but I don't know how long or how wide it is.

Question. Do you think it ten or fifteen or twenty miles long?

Answer. I can't say exactly, it may be ten miles long.

Question. Do you think it is ten miles in breadth?

Answer. I can't say whether it is ten miles in width or not. It may be between five and ten miles wide. I don't know exactly how wide it is.

Question. Have you travelled much on the borders of the Lake?

Answer. I have been to it different times, but I have never travelled much on the borders of the Lake.

Question. Did you ever know any other white persons except Indian traders, to go to Lake George, before the change of flags?

Answer. No.

Question. Was it not very unusual for even the Indian traders to go to Lake George before the change of flags?

Answer. It was not in their way. It was unusual for them to go there.

Question. How far is the settlement on Musquito from Lake George?

Answer. I can't say exactly, but I suppose it to be about 25 or 40 miles.

Question. Was there any settlements between Musquito and Lake George?

Answer. Yes; there was one at Spring Garden.

Question. Who made the settlement at Spring Garden, and at what time was it made? How long did he live there, and at what time was it abandoned?

Answer. One Mr. Williams made the settlement. The time when it was made is about thirty years ago, as near as I can recollect. I don't know how long he lived there, or when it was abandoned.

Question. Was any one living at Spring Garden in the year 1815?

Answer. I believe not. I saw Indians living about there in 1815.

Question. Were there any other settlements nearer to Lake George than the settlement at Musquito, in the year 1815?

Answer. Not that I know of.

Question. What number of men were in the boat at Musquito, in the year 1817, when you say some men were killed; and did not the balance of the party belonging to the boats, leave there immediately after?

Answer. I don't know the number that was in the boat. I believe, by what I understood, that the Spanish troops and some dragoons, made them go away.

Question. Did not the Governor send out the troops to defend the

inhabitants settled on the east of the St. John's river, whenever the settlers complained of intrusion, either from the Indians or white people?

Answer. I never knew him to send any troops after the Indians. Some of ourselves went out sometimes when the Indians did mischief. We petitioned the Governor for leave to go out.

Question. When you went out in pursuit of the Indians who had done mischief, did you not always succeed in driving them off?

Answer. We never could overtake them.

Question. You have said there were Indians living on Lake George. When did you first see them living there?

Answer. I don't know if they were living there. They went backwards and forwards there.

Question. You have said that the Indians were driven over on this province by the invasion of Genl. Jackson; was that before the year 1818, or did you ever see more Indians on that Lake after 1818 than you had ever seen there before that time?

Answer. I think there were more Indians on Lake George after 1818, than there were before they were driven down here by General Jackson.

Question. Could a settlement have been made upon Lake George with safety, to either persons or property, before the year 1815?

Answer. I believe not.

The counsel for the United States objected to all the testimony of this witness in relation to the disturbed state of the country, as being irrelevant; which objection was overruled by the court, and the testimony admitted.

TESTIMONY OF R. D. FONTANE.

Raphael D. Fontane, sworn as a witness in open court, on behalf of the claimant.

Question. Are you a native inhabitant of East Florida, and has the city of St. Augustine been your constant residence?

Answer. Yes.

Question. Will you state where Lake George is situated, and its distance and direction from St. Augustine?

Answer. It is situated on the river St. John's, in about a southwest direction from here, and is about sixty miles distant from here by land, and between 45 and 50 miles above Picolata, and from Musquito across to Lake George is between 25 and 30 miles.

Question. Will you state whether the country at Lake George, and in its neighborhood, was considered a safe place for settlement at any time between 1815 and the transfer of the province?

Answer. I don't think it was.

Question. Was it reported as a place of frequent and common resort of the Indians of this province?

Answer. Yes.

Question. Do you consider that either slaves, or other property, would have been at all safe at a small settlement on the shores of the Lake, at any time from 1815 to the transfer?

Answer. I don't think they were.

Question. Was slave property considered liable to be kidnapped when upon the St. John's, to the south and west of St. Augustine? and were negroes occasionally kidnapped, and run into Georgia, or into the Indian country?

Answer. They were.

Question. Do you know of any disturbances that occurred in the country, occasioned either by the Indians or by the patriots, subsequent to 1815; and if so, please to state what they were?

Answer. I do. In 1817 Amelia Island was taken. In 1818, at McGirt's point, there was the family of one Bradley killed there by the Indians, and some of them wounded. In 1817, at Black creek, there was a son of one Mr. Branning killed by the Indians. At Flemming's island, a party of Indians, about the latter part of 1817, came down there, and killed a young man. At Picolata there were some negroes taken away that belonged to Mr. Warton; I think this was in 1816; they were taken by white men, and, I believe, they were carried into Georgia. There were a family of free negroes taken within nine miles of this city, they were taken near about the time that Warton's were. There was a boat in the month of August, 1817, left Amelia Island, and went to Musquito, and went up the Tomoka river, for the purpose of plundering. There was a party fitted out from that place, and, I believe, all the men were killed in the boat but one, and then was taken. I was engaged in two expeditions in 1817 to go out and protect the inhabitants. It was understood there was a boat fitting out for the purpose of plundering the inhabitants, and we went to Mrs. Hudnell's on the St. John's river. I was in another expedition that went to St. Mary's river to protect the inhabitants. One of these expeditions was in July, and the other expedition was sometime after that, in the same year.

Examined by the U. S. Attorneys.

Question. Do you recollect of any other disturbances in the province, between the years 1815 and the year 1821, than those you have mentioned?

Answer. I have no recollection of any others.

Question. How far is Amelia Island from Lake George? How far is McGirt's point, Black creek, and Flemming's island, from Lake George?

Answer. I should suppose Amelia Island to be about one hundred and fifty miles from Lake George. McGirt's point about one hundred miles. Black creek about eighty miles. Flemming's island about 80 miles, and Picolata about 50 or 60 miles distant from Lake George.

Question. How many persons were supposed to be concerned in the taking of negroes of Mr. Warton at Picolata? How many negroes were taken, and were they not the children of Mr. Warton?

Answer. I suppose there were eight or ten persons concerned. I believe, including Warton's children, there were about 17 negroes taken, as near as I can recollect.

Question. Was not Warton an Indian countryman, and were not the persons engaged in taking these negroes, subjects of the King of Spain?

Answer. I don't know that he was. I have known him to live at Picolata. I believe that some of these persons engaged in taking these negroes of Mr. Warton's, were Spanish subjects, and some of them people from the borders of Georgia. There was a gang of Indians at McGirt's point; I don't know of how many it consisted. The Governor did not send out troops at that time. There were eleven Indians concerned in the affair on Flemming's island. I don't know how many Indians there were concerned in the affair at Black creek.

Witness states that the strength of the Spanish garrison in this place, from the year 1815 till the change of flags, including the Black troops, were something like six hundred men, well armed and equipped. There was a garrison on the St. John's, at a place now occupied by Mrs. Hudnell, called Fort St. Nicholas, but which was broken up in June, 1817. There was a garrison at Pilatka, opposite the place where Doct. Brush's settlement now is. There was a fort at Picolata, but I don't know that there was any troops there. There was a few men at the place where Mr. Hollingsworth formerly lived, about twelve miles above St. Nicholas. Witness does not know that there were any troops at the mouth of the St. John's river after 1812. Witness states that the number he has mentioned as being stationed at this place, does not include the militia of this place, which might have been one hundred. Witness states that the boat that was taken at Musquito was taken by the militia that went from this place. The Governor received intelligence of this boat fitting out, and the boat was seen to pass here, and the militia arrived about the same time with the boat. The whole of the men in the boat were killed, with the exception of one man, and the boat taken.

Question. Whenever the Governor was applied to for protection, by any of the people settled in the country, did he not send out detachments of troops for their relief?

Answer. I don't recollect of any instance of the kind. Companies that were fitted out, I know to be volunteer companies, fitted out by permission of the Governor.

Question. Could a settlement have been made upon Lake George with safety to persons or property, before the year 1815?

Answer. I think not. I have been at Lake George. I was up there in the early part of 1817. I was not there with the Indian traders. I was looking out for live oak.

Examined by Claimants.

Question. Were these garrisons stationed in different places on the St. John's, or elsewhere, considered as protecting the country, and making it safe and secure beyond the reach of their guns?

Answer. They were not. I believe they were merely kept there

for the purpose of giving information to the Governor if there was any disturbance. There were only a few men.

Question. Was the garrison opposite Pilatka commanded by Lalderal?

Answer. It was kept by a few free negroes. There was a corporal there. I believe Lalderal was stationed there. The object of the garrison was to conduct Indians across the river St. John's.

Examined by U. S. Attorneys.

Witness states that it is between twenty-five and thirty miles from Lake George to Pilatka.

And afterwards, at the same term of July, in the year of our Lord one thousand eight hundred and thirty-seven, to wit, on Monday, the eleventh day of said term, and the eleventh day of the month of September, the following entry of record was made in this cause, to wit:

Decree of Confirmation.

ANDREW BURGEVIN
vs.
THE UNITED STATES OF AMERICA. } Land claim 16,000 acres.

Whereas Andrew Burgevin did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828; on the 21st day of May, 1829, file his petition for the confirmation of certain land therein mentioned, in the clerk's office of the superior court for the eastern district of Florida. And *whereas* the attorney of the United States for said district, did duly appear and file his answer and amended answer to the said petition. And this cause having been heard, and evidence and argument of counsel, as well on the part of the said claimant as on that of the United States, having been offered and submitted to the court, and the court having examined the claim of the said petitioner, and the answers of the attorney of the United States, together with the exhibits and evidence filed in this cause; and having maturely considered the same, doth *order*, *adjudge*, and *decree*, that this claim is *valid*, and that, in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement, and limits, between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821; and under and by virtue of the laws of nations, and of the United States, it is hereby confirmed, adjudged, and decreed, unto the said claimant, to the extent, for the number of acres, and at the place, as in the memorial of the said Andrew Burgevin, and the grant of the Governor thereon, of the 13th January, 1818, is set forth, to wit: "A square of five miles

of land, or the equivalent thereof," situated "on a creek known under the name of Pellicer's creek, at about twenty miles south of this place, where the Chocochate road crosses, (said road being intended to be the centre.)"

And afterwards, at the same term of July, and on the same day, month, and year, the following appeal was entered of record in this cause, to wit:

Appeal.

THE UNITED STATES OF AMERICA *ads.* ANDREW BURGEVIN. } Land claim 16,000 acres.

This day came as well the attorney of the United States for this district, as the solicitor for the said claimant; and the said attorney of the United States moved the court that an appeal be granted in this case on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; and that a citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellee, and that the same may be served by the marshal of said district upon the said appellee or his solicitor or agent, and returned to this court within thirty days from the issuing thereof. All which is ordered accordingly.

In pursuance of the above order, a citation of appeal was duly issued in this case; and which said citation, and the return of the marshal thereon, is in the words and figures following, to wit:

Citation of Appeal and Return.

In the name and by the authority of the United States of America, to Andrew Burgevin, or to his Agent, Attorney, or Solicitor, greeting:

You are hereby cited and admonished that an appeal has been taken on the part of the United States from the decree of the superior court for East Florida, to the Supreme Court of the United States, in a certain claim for sixteen thousand acres of land, wherein you, the said Andrew Burgevin, are claimant, and the said United States respondent; and that the record in said cause will be forwarded to the said Supreme Court to be placed on the docket of said court at the next term thereof, to be holden on the second Monday of January next.

Witness the honorable Robert Raymond Reid, judge of our said [SEAL.] court, at the court house, in the city of St. Augustine, this 12th day of September, A. D. 1837.

K. B. GIBBS, *Clerk.*

THOMAS DOUGLAS, *Dist. Atty.*
B. A. PUTNAM, *Sol. for Claimant.*